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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,205	08/27/2003	Terence Chen	4458-0115P	3493
7590	09/21/2005		EXAMINER	
Mr. Charles E. Baxley Hart,Baxley,Daniels & Holton 90 John Street Suite 309 New York, NY 10038			MULLER, BRYAN R	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 09/21/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Tak

Office Action Summary	Application No.	Applicant(s)	
	10/648,205	CHEN, TERENCE	
	Examiner	Art Unit	
	Bryan R. Muller	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 5 and 10-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 5 and 10-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 August 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 discloses a spring-biased detent but the specification and drawings disclose two separate spring-biased detents (rod and ball detents). It is unclear which spring-biased detent is being claimed.

3. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 recites the limitation "the O-ring" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 5 and 10-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 6,857,339. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same inventive concept and are merely obvious variations of each other.

6. Claim 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/854,344. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the same reasons stated in paragraph 4 above.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hu (2002/0023519) in view of Over et al (3,436,992) or Chen (6,516,930).

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9. In reference to claim 5, Hu discloses a ratchet wrench including a handle (12) comprising an annular head (11) from which the handle projects, the annular head defining a first space (13), a second space (14) communicated with the first-space and a third space (15) communicated with the second space, an annular gear (20) positioned rotationally in the first space, the annular gear including a toothed external face (21), a direction controller (40) positioned in the second space, the direction controller including a pawl, the pawl including a toothed face (41), a direction switch (50) mounted rotationally on the handle and partially positioned in the third space for bringing the toothed face of a selective one of the pawls into engagement with the toothed external face of the annular gear, a spring-biased detent (200), wherein the handle defines a recess (151, 152 receive the detent and recess 15 receives the portion of the direction switch that houses the remainder of the detent so, thus, receives the detent) for receiving the spring-biased detent, and a disc (53) defines a recess (531) for receiving the spring-biased detent so that the disc is mounted rotationally on the handle. Hu, however, fails to disclose that the direction controller includes two pawls and a spring installed between the pawls, each of the pawls including a toothed face. Both Chen and Over suggest that a ratchet wrench of the same type claimed by Hu can be operated by means of two spring biased pawls instead of one, as both configurations are common ratcheting mechanisms. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hu by using two pawls instead of one because either Over or Chen suggests the use of two pawls in the same type of ratchet wrench.

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10. In reference to claim 11, Hu further discloses an O-ring (bottom portion of annular gear 20) fit in the first space for supporting the annular gear.

11. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hu (2002/0023519) in view of Over et al (3,436,992) or Chen (6,516,930) as applied to claim 5 and further in view of Chang (6,382,051).

12. In reference to claim 10, Hu, Over and Chen all fail to disclose that the pawls include a boss formed thereon that fits in an end of the spring so that it is firmly connected with the spring, however Over does disclose recesses in the pawls to firmly connect the spring with the pawl and Chang discloses a ratchet and teaches that pawls may include a recess (72 in figure 4), or alternatively, a boss (93 in figure 5) to firmly connect the spring with the pawl. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pawls of the Hu, Over/Chen invention with bosses to firmly connect the spring with the pawl, as taught by Chang.

13. In reference to claim 12, Hu further discloses a C-ring (30), wherein the annular head defines an annular groove (131) in an internal side for receiving an external edge of the C-ring, and an O-ring (bottom portion of annular gear 20) defines an annular groove (23) in an external side for receiving an internal edge of the C-ring.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chang (2003/0136232), Chen (6,408,722), Chang et al (6,481,315), Wu (2003/0213342), Hu (6,282,992) and I-He (6,260,449) all disclose ratchet wrenches with similar properties as those claimed by the applicant.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R. Muller whose telephone number is (571) 272-4489. The examiner can normally be reached on Monday thru Thursday and second Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BRM BRM
9/6/2005

Joseph J. Hail, III
Supervisory Patent Examiner
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